SW 2216

Previous references.

Cl 158-07; 1-5B. 1910-11

(Courts.)

Later references.

File No. 286-10

Serial Nos. 1-5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B. for April 12.

SUBJECT.

Amount of court fees levied in suits for the possession of a portion of survey number or sub number.

1 To the Registrar Chief Court. J. 3528 dt 26.6.11
Invites the opinion of the Chief Court in the matter

2. From the same Office No. 127/8 dt 7-7-1911
Forwards copies of the opinion of the Judges

3. To the Registrar Chief Court No. J. 3528 dt 26.6.1911
Requests to be furnished with an extract of the rules of Inspection of Courts in Mysore by the Chief Justice

G. R. S. 58

4 From the same Office No 380/26 dt 19-7-11.
Forwards the above

5 To the Compiler, Mysore Gazette. No J. 2991 dt 4.4.12
notifies the above

D Vasudevarao

N° C. 104.
15. 10. 1911.

G.R.S. 111 1910-11

GENERAL AND REVENUE SECRETARIAT

(Courts)

NOTES.

Ct. File No. 286-10.

FILE HEADING

Amount of Court Fees levied in Suits for the possession of a portion of Survey number or Sub-number.

From

No. Dated Received

Diary No. | Enclos. | Spare Copies | Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P.T.O.

NOTES—First sheet.

GPB—15,000—24-4-09

SUBJECT No. 13.– 10

Amendment of the Court Fees Regulation or modification of the Government Order No. 2951 of 25th March 1908.

Mr. B. Narasinga Rao, Seringapatam Municipality

Summary of discussion.—Whenever a suit is filed to recover a whole survey number or a sub-number, the land is required to be valued at five times the amount of annual assessment payable on that land to Government. If the suit is to recover a portion of that number, it is insisted that the value of that portion should be the market rate, which often amounts to more than five times the assessment of the whole survey number. With a view to remove this anomaly and to avoid hardship to the litigant public, it was prayed last year (Subject No. 16) that either the Court Fees Regulation might be amended or the Government Notification No. 2951 of 25th March 1908 modified. The Government were pleased to observe that the Notification of 25th March 1908 was clear enough on the point and that if any doubt existed about its interpretation, a test case might be taken to the Chief Court.

The observations made by the Chief Justice in his notes of inspection of Mysore courts of 30th April 1910 leave no doubt as to the interpretation put upon the circular. It is therefore prayed that the circular in question may be modified by directing the valuation of a portion of a survey number or the sub-number being fixed at five times the assessment rateably payable on that portion. If that is considered impracticable, the court-fee may be ordered to be levied as if the suit were for the recovery of the whole number. He further pointed out the anomaly in taking the market value as the standard for calculating the court-fee when the suit is for the fractional portion of a survey number, while, when the suit is for the whole survey number or a sub-number only, five times the assessment is taken for fixing the court-fee. He stated that the Chief Judge had appreciated the hardship involved in the existing rules.

Reply of Government.— The circular in question will be amended.

Subd. The opinion of the Chief Court may perhaps be invited

Draft Subd

Hcs (22) SM (11)

16-6-1911.

16/6

16/6

17/6/11

P 70

G. R. S. 12]
General and Revenue Secretariat.

Cts. File No. 286 of 1910-11.

Serial No.	
1	To the Registrar, Chief Court. No J 3528 dt 26.6.1911. Invites the opinion of the Chief Court in the matter.
2	From the Same officer, No $\frac{127}{8}$ dt 7.7.1911. Forwards copies of the opinions of the Judges.
3	Subd for orders. There appears to be some misapprehension in regard to the expression "a fractional share of that part" occurring in Govt Notification No J 2951—Cts 158-07-5 dt 25.3.1908. It is perhaps held by the Courts that the Concession allowed by the said notification does not apply to an integral share of such part as is referred to therein, but applies only to a fractional share. We may perhaps get a copy of the Chief Judges' notes of inspection referred to above. Draft is Submitted for approval or for other orders Accts (122) SW(11) 11.7.11 11.7.11 4 (1) I Submit draft [illegible] 5 (2) Please put up the Allahabad case quoted by the Member in his representation in 1909. Sd/- 10/7/11 11/7/11

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

Ct. File No. 286 of 1910-11.

Serial No.	
3	To the Registrar, Chief Court. N J 3528 of 26.6.1911. Requests to be furnished with an extract of the notes of Inspection of the Courts in July 1910 by the Chief Justice.
4	From the Same Officer, N 380/26 of 19.7.11. Forwards the above.
5	Subd for orders, with the Allahabad Reports referred to above. HCJ(122) CN(11) 24.7.11

The difficulty has arisen in this way:—

If a suit is filed for a Survey number or a recognised Share of a Survey number the Court fee is to be Calculated on five times the assessment payable in respect of the Survey number or the recognised Share as the case may be. If the Subject matter of the suit refers to a part of a Survey number but which is not Separately assessed in the Deputy Comm's Register (or has not been Constituted into a "recognised Share") then according to Existing practice the Court fee is to be Calculated on the Market value of the

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

and
portion is disputed but if the ~~suit is~~ ~~either portion is disputed~~ Suit is for ~~the~~ a fractional Share of a whole Survey number then the market value should not Exceed five times the Assessment that may be ratiably fixed on the fractional Share. (Please See Govt Notification No. 2957 dated 25th March 1908).

¶ This Concession is a legitimate Corollary from the principle that, as far as possible for purposes of Court fee, the value of the land in dispute should not ~~established~~ Exceed five times the revenue payable on it.

¶ The Courts, however, have interpreted the above notification ~~strictly~~ somewhat narrowly with the result that one particular class of Cases viz that refd to by the Representative member in the Subject under Consideration does not get the benefit of the Concession. For Example if the Suit is for the recovery of a definite portion of a land defined by metes and bounds or for a portion defined by its Specific Extent (Please See Chief Judge's Circular on Mode of Inspection) the Court fee payable is to be computed

NOTE—Contn. sheet.

GPS—50,000—12-8-10

Serial No.

on the market value without regard to the fact whether it Exceeds or falls Short of five times the assessment that may be rateably assessed on it. This differential treatment is based on the view that in such Cases the Suit is not for a "fractional Share" * and that Consequently the notification refd to above does not apply. The Case is therefore taken to fall under Sub-cl. (d) of Section VA of Sch 4 of the Ct. Fees Regn.

* (fractional share e.g. fractional share Examples:- Suit for the recovery of a third part of an Entire Estate or a fourth part of a wet land)

We The Representative Member now requests that Such Cases may also be brought under the Notification of 1908 as there is no apparent reason why they Should be treated differently. The Existing practice also leads to anamoly because the market value of portion of a land may be Sometimes more than five times the assessment payable on the whole number and thus the Court fee to be paid for recovering a part of a Survey number may be more than that payable for the recovery of the whole.

The Existence of the anamoly can not be

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

denied ~~whether~~ if the interpretation ~~put upon~~ adopted by the Inspection of 1908 by the Ld Chief Judge — which is supported by a ruling of the Allahabad High Court — is accepted as Correct — The point does not seem to have come up for decision in our Chief Court —

The Ld Hg. Ch. Judge proposes that the Court fee in such Cases may be levied on the ~~to~~ market value of the portion in dispute Subject to a maximum of ~~5~~ five times the Assessment payable on the whole Survey number This ~~view~~ opinion is probably based on the view that a definite portion of a Survey number may sometimes be its most valuable portion and in such a Case a maximum of ~~5~~ five times the Assessment rateably assessable would Cause manifest loss to Govt. ~~In~~ No such result would follow in the Cases of a fractional Share for there the Share includes all parts of the land — good, bad or indifferent — Mr Chandrasekhara Ayyar agrees with the Ch. Judge but Mr Paranjpe Ayyar seems to be against any change in the rules

NOTE—Contn. sheet.

GPB 55,000—27-4-09

Serial No.

on the ground that minute Subdivision of lands is discouraged by the Land Revenue Code. If any change is necessary he would in the interests of simplicity fix an absolute value viz five times the assessment on the whole number.

There seems to be no doubt that such Cases are Exceedingly rare and the fiscal loss or gain to Govt would be infinitesimal whichever view is adopted. It is therefore Submitted that in the interests of simplicity and Clearness, the provisions of the notification of 1908 may be Extended to the Cases now under Consideration.

26/7/11.

Sec'y 13 It would perhaps be simple to adopt the suggestion made by the Chief Judge.

VA 2nd Cy

CSR 28/8/11

Substitute five times the assessment seems to be ab- 15/8/11

Before the file was put up a letter was received in 1594 filed in File No. 158-07.

26/7/11 put up flag B 26/7

GPB—55,000—27-4-09

Serial No.

surely inadequate in the case of many lands. It is perhaps open to consideration whether this proportion may not be increased & the rule made uniform for whole numbers or any parts.

15 The matter may be considered with advantage at a meeting.

8/8/11

9/8/11

Dewan

CHS
21/8/11

21/8/11

13138
21.8.11

16 This may be brought up at an early meeting of Council

17 Note for meeting & circulate [illegible]

CHS
23/9/14

18

19

20

7/10/14

9

Extract from the Proceedings of the 273rd Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 26th Feb. 1912.

301
18.3.12

3. 21 Subject. -

Amount of court-fees leviable in suits for the possession of a portion of a survey number or sub-number.

OPINION OF THE COUNCIL.

22

The recommendation of the Judges of the Chief Court may be adopted and the appended × Notification issued in supersession of Notification No.J.2951/Cts.158-07-5 dated 25th March 1908.

× Flag A

× Flag B

(Sd). T. Ananda Row,
Dewan of Mysore.

"Extract"
C Balaperumalamayya
Offg. Secretary to Govt.

Submitted to His Highness.

23 These papers relate to the proposed issue of a Notification under Section 42 of the Mysore Court Fees Regulation III of 1900 whereby it is intended to remove the anamoly of a portion of an estate being valued for purposes of the Regulation at a figure higher than what the whole estate will be valued at, for the same purpose.

"A"

24 2. Under clause (d) of Sub-section v A of Section 4 of the Regulation the value for the purpose of assessing the fees leviable, in certain classes of suits, is taken to be the market value, where the subject matter of the suit is land forming part of an estate paying revenue to Government but not a definite share of such estate and is not separately assessed.

25 3. In Government Notification No.J 2951/Courts 158-07-5 dated 25th March 1908, the concession of limiting the value to five times the assessment was extended to suits involving fractional parts of an estate. In practice the Notification was interpreted so as not to extend the concession where the suits were

B

for portions of estates described by metes and bounds or defined by extent and in these cases the market value of the lands were continued to be taken for the computation of the fees chargeable.

4. It is now proposed (at the instance. instigation of the Dasara Representative Assembly Members of which mooted the subject) to supersede the above Notification which has been found to be defective. The Council have adopted the opinion of the Chief Court to limit the market value of such lands to five times the assessment payable on the estate. The draft Notification may be approved.

P Ramanda Rao
2 D Nov

12

Record of Cases submitted for the Orders of His Highness the Maharaja.

2.4.12
115

Subject.

27 Amount of Court fees leviable in suits for the possession of a portion of a survey number or sub-number.

585

28

Order.

Approved
~~KRW~~
4/4/12

Secy
5/4/12
111
Issue
CSB
6/4/12

16/4/12.

Subd to Councillor.

SK(II)
16/4/12

16/4

6/4

SK
6/4/12

G. R. S. 12]
General and Revenue Secretariat.

File No. 286 of 1910

14

Serial No.	
5	do. The Compiler, Mysore Gazette no. J 2991 8/11-4-12 Notifies the above.

vide Mysore Gazette Page 111. Part I Dated 18-4-12.

NOTE— Contn. sheet.

GPB—50,000—12-8-10

1/2

110/13

G.R.S. 26]

Ct. File No. 286-10

Serial No. 1.

Diary No. of letter replied to

No. J 3528.

General and Revenue Secretariat

(CS.)

, *the* 19 .

To

The Registrar of the
Chief Court.

Date of issue 26-6-1911

Signed by [illegible]

Sir,

I am directed to invite your attention to Subject N° 13 of the Proceedings of the Representative Assembly of 1910 and the reply of Govt thereto in the matter of Amending the Govt Notn N° J2951-Ct.158-07-5 dated the 25th March 1908, and to

regarding the levy of Court fees in certain Cases,-

over.

SUBJECT.

24/6/11

Request you to be so good as to favour Govt with the opinion of the Chief Court thereon, at a very early date.

I have the

For Secy

SW(11)
16/8/11

List of enclosures,

Copied by

Examined by SW

GPB—20,000—26-9-10

No. 127 Genl
8

J. 101

Ch 286-10-2
E 3

BANGALORE,
Dated 7th July 1911.
8

From,

V. A. Rajaratna Mudaliar, Esqre,
Registrar, Chief Court of Mysore.

To,

The Secretary to Government,
General and Revenue Departments.

Sir,

With reference to your letter No. J.3528/Cts. 286-10-1 dated the 26th June 1911 anent subject No. 13 of the Proceedings of the Representative Assembly of 1910, in the matter of amending Government Notification No. J2951/Cts.158-07-5 dated the 25th March 1908 regarding the levy of Court fees in certain cases, I am directed to forward copies of the opinions recorded by the Judges of the Chief Court.

I have the honor to be,
Sir,
Your most obedient servant,

V. Rajaratna Mudaliar

A.V.

REGISTRAR.

8.

Opinions recorded by the Judges of the Chief Court

on subject No. 13 of the Proceedings of the

Representative Assembly of 1910.

---:::---

The Officiating Chief Judge -

I am of opinion that there is much force in the representation made that there is need for some concession being shown. But I do not agree with the proposal that the Court fee should be paid on five times the assessment rateably. The fee in such cases should, in my opinion, be on five times the assessment payable in respect of the whole of the Survey number, with this proviso ~~vision~~ however that if the market value of the part sought to be recovered is less than five times the said assessment, Court fee may be paid on such market value as required by clause (d) of Sub Section 5A of Section 4 of the Court Fees Regulation.

In this view, the said clause need not be repealed.

Mr. Justice K.S. Chandrasekhara Aiyar-

I agree.

5 X

Mr. Justice T. Paramasiva Iyer -

The Land Revenue Code recognises only Survey numbers and recognised shares of Survey numbers. It is the policy of the Land Revenue law to discourage minute parcelling of the land and I see no reason why if the value of land has risen since the days of the Court Fees Act a concession allowed to occupants of Government land surveyed and marked out at great cost, should be allowed to those who sub-divide it in parcels expressly discountenanced by the Land Revenue Code and complicating litigation and Land Revenue adminstration. These unrecognised parcels generally give more work to the Judges like unsettled Inam lands and Government may in these cases legitimately take their own share of the market value of the land as they do in the case of houses. To simplify trials I would value the subject-matter as five times the value of the entire number or recognised share of which it forms a part, but give no option to the party.

------:::::@:::::------

" C O P Y "

A.V.

R E G I S T R A R.

13.

G.R.S. 26]

'15 File No. 2866

Serial No. 3

Diary No. of letter replied to

No. J279.

General and Revenue Secretariat

(CS)

, *the* 19 .

To

The Registrar of the
Chief Court of Mysore

Date of issue 18-7-11

Signed by [illegible]

SUBJECT.

Adverting to his letter
No 127/8 of 7.7.1911 regarding
the levy of Court fees in
certain cases, has the
honor to request him
to be so good as to furnish
Govt with a copy of the
notes of inspection of the
Courts in Mysore, held by
the Chief Justice on 30.4.1911
so far as they relate to the
subject under consideration.

B—O.

For Secy.

SN(11)
11/7/11

cd
17/7

List of enclosures,

Copied by

Examined by

GPB—20,000—26·9·10

No. 380 July 26

J 228 Ch 286-10-4

I 111 21.7.11

BANGALORE,

Dated 19th July 1911.

To

From,

V. A. Rajaratna Mudaliar, Esquire,
Registrar, Chief Court of Mysore.

To,

The Secretary to the Government of Mysore,
General and Revenue Departments.

Sir,

With reference to your No. J.279/Cts.286-10-3 dated 18th Instant I am directed to forward an extract of para 9 from the notes of inspection of the Courts in Mysore, held by the Chief Justice on 30th April 1910.

I have the honor to be,

Sir,

Your most obedient servant,

A.V.

REGISTRAR.

Notes of inspection of the Central Record room and the Subordinate Courts at Mysore by the Chief Judge dated 30th April 1910.

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9. The instructions contained in Circular Letter No. 200 dated 30th March 1908 have been misunderstood. The words 'fractional share' must be taken literally and it is only when a fractional share (defined or undefined) is claimed that the instructions contained in the Circular can be applied. If a plaintiff for instance claims 100 square yards out of a Survey Number consisting of 2000 square yards, the value of the subject matter of the suit is the market value of the area claimed and the plaint must be stamped accordingly. It is opposed to the spirit of the Circular Letter to regard the suit as one for the possession of a twentieth share and to allow it to be instituted on a Court fee calculated at 5 times one twentieth part of the assessed revenue.

In this connection it may be pointed out that the market value as estimated by the plaintiff should ordinarily be accepted as correct. The matter is a purely fiscal matter with which the defendant is not concerned in any way. The issue of a commission under section 6 of the Mysore Court Fees Regulation always entails delay and such a commission should

In Exercise of ...

Exn as pleased to direct

Where the market value of any land for which court fees are payable under Clause (d) of Sub-section V of Sec 4 of the Mysore Court Fees Regulation, exceeds the value of the estate or definite annual recognised share of an estate paying revenue to Government as determined by clauses (a) (b) of the said Regulation, the excess above the amount payable for a suit for the whole estate or recognised share of an estate shall be remitted.

4

11

Notification.

In exercise of the powers conferred by Section 42 of the Mysore Court Fees Regulation, 1900, and in supersession of Government Notification No.J.2951/ Cts.158-07-5 dated the 25th March 1908, Government are pleased to direct that in suits for the possession of land which forms part of an estate paying revenue to Government but which is not a definite sahre of such estate and is not recorded in the Deputy Commissioner's Register as separately assessed with such revenue, where the market value of such land shall exceed five times the assessment of the entire estate or a definite share of the estate of which it forms a part and which pays an annual revenue to Government, the court fee payable on the market value of such land which is in excess of the fee payable on a value calculated at five times the assessment on the entire estate or a definite share of the estate paying annual revenue to Government as aforesaid, shall be remitted.

Abt Secy's d rept 5-12

Notification.

In exercise of the powers conferred by Section 42 of the Mysore Court Fees Regulation, 1900, and in supersession of Government Notification No. J.2951/Cts.158-07-5 dated the 25th March 1908, Government are pleased to direct that in suits for the possession of land which forms part of an estate or of a definite share of an estate paying annual revenue to Government but which is not itself a definite share of ~~such~~ an estate and is not recorded in the Deputy Commissioner's Register as separately assessed with revenue, where the market value of such land exceeds five times the annual assessment payable in respect of the estate or of a definite share of the estate, as the case may be, the court fee payable on such excess may be remitted.

J 2991/cs 286-10-5 & 11-4-12

13

NOTIFICATION.

In exercise of the powers conferred by section 42 of the Mysore Court Fees Regulation, 1900, and in super-session of Government Notification No.J 2951-Courts 158-07-5 dated the 25th March 1908, Government are pleased to direct that where the market value of any land for which Court fees are payable under clause (d) of Sub Section V A.of Section 4 of the Mysore Court Fees Regulation, exceeds the value of the entire estate or definite share of an estate paying annual revenue to Government as determined by Sub Clauses (a) or (b) of sub section V A. of section 4 of the said Regulation, of which it forms a part, the excess above the amount payable for a suit for the whole estate or recognized share of an estate shall be remitted.

GENERAL.

No. J. 2991—*Cts.* 286-10-5, *dated* 11*th April* 1912.

In exercise of the powers conferred by Section 42 of the Mysore Court Fees Regulation, 1900, and in supersession of Government Notification No. J. 2951—Cts. 158-07-5, dated the 25th March 1908, Government are pleased to direct that where the market value of any land for which Court Fees are payable under clause (*d*) of sub-section V A of Section 4 of the Mysore Court Fees Regulation, exceeds the value of the entire estate or definite share of an estate paying annual revenue to Government as determined by sub-clause (*a*) or (*b*) of sub-section V A of Section 4 of the said Regulation, of which it forms a part, the excess above the amount payable for a suit for the whole estate or recognized share of an estate shall be remitted.

By Order,

C. S. BALASUNDARAM IYER,
Officiating Secretary to Government,
General and Revenue Departments.